

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

Attachment F
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LLS NO. 20-0508.01 Jerry Barry x4341

SUNSET BILL

Sunset Process - House Judiciary Committee

BILL TOPIC: "Sunset Sex Offender Management Board"

A BILL FOR AN ACT

101 CONCERNING THE CONTINUATION OF THE SEX OFFENDER
102 MANAGEMENT BOARD, AND, IN CONNECTION THEREWITH,
103 IMPLEMENTING THE RECOMMENDATIONS OF THE 2019 SUNSET
104 REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sunset Process - House Judiciary Committee. The bill implements the recommendations of the department of regulatory agencies' sunset review and report on the sex offender management board

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

(board). The bill continues the functions of the board for 7 years, until 2027 (*Recommendation 1, sections 1 and 2*).

The bill requires persons who supervise sex offenders (supervising officers) to conform to the guidelines and standards of the board and authorizes the board to work with the supervising agencies to hear and act on complaints against supervising officers, including removing a supervisory officer's ability to supervise a sex-offender-specific caseload. (*Recommendation 2, sections 3 and 4*).

Under current law, the agency supervising an adult sex offender or juvenile is required to give the offender or juvenile a choice of 2 appropriate treatment provider agencies. The bill requires the supervising agency to provide a list of all approved treatment providers with expertise to work with the specific risks and needs of the offender or juvenile (*Recommendation 3, section 5*).

Other statutes define sexually violent predators and require them to register and be subject to community notification. The bill strikes unnecessary language referring to sexually violent predators (*Recommendation 4, section 6*).

The bill requires the board to maintain a record of any denial or removal from the list of approved providers or other sanctions due to a provider's criminal history (*Recommendation 5, section 7*).

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 ***Recommendation 1***

3 **SECTION 1.** In Colorado Revised Statutes, 16-11.7-103, **amend**
4 (6)(a) as follows:

5 **16-11.7-103. Sex offender management board - creation -**
6 **duties - repeal.** (6) **Repeal.** (a) This section is repealed, effective
7 September 1, ~~2020~~ 2027.

8 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **repeal**
9 (19)(a)(XI); and **add** (28)(a)(III) as follows:

10 **24-34-104. General assembly review of regulatory agencies and**
11 **functions for repeal, continuation, or reestablishment - legislative**
12 **declaration - repeal.** (19) (a) The following agencies, functions, or both,
13 are scheduled for repeal on September 1, 2020:

1 (XI) ~~The sex offender management board created in section~~
2 ~~16-11.7-103, C.R.S.;~~

3 (28) (a) The following agencies, functions, or both, are scheduled
4 for repeal on September 1, 2027:

5 (III) THE SEX OFFENDER MANAGEMENT BOARD CREATED IN
6 SECTION 16-11.7-103;

7 ***Recommendation 2***

8 **SECTION 3.** In Colorado Revised Statutes, 16-11.7-102, **add**
9 (3.5) as follows:

10 **16-11.7-102. Definitions.** As used in this article 11.7, unless the
11 context otherwise requires:

12 (3.5) "SUPERVISING OFFICER" MEANS ONE OF THE FOLLOWING
13 INDIVIDUALS WHO IS THE PRIMARY SUPERVISOR OF A SEX OFFENDER OR A
14 JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE AND WHO MAINTAINS
15 THE COMPLETE CASE RECORD:

16 (a) PROBATION OFFICER;

17 (b) PAROLE OFFICER;

18 (c) COMMUNITY CORRECTIONS CASE MANAGER; OR

19 (d) EMPLOYEE OF A STATE OR COUNTY DEPARTMENT OF HUMAN
20 SERVICES OR SOCIAL SERVICES WHO WORKS WITH AN ADULT SEX
21 OFFENDER OR A JUVENILE WHO HAS COMMITTED A SEX OFFENSE.

22 **SECTION 4.** In Colorado Revised Statutes, 16-11.7-106, **amend**
23 (1), (4), and (7) as follows:

24 **16-11.7-106. Sex offender supervision, evaluation, treatment,**
25 **and polygraph services - contracts with providers - placement on**
26 **provider list - grievances - fund created.** (1) The department of
27 corrections, the judicial department, the division of criminal justice in the

1 department of public safety, or the department of human services shall not
2 employ or contract with, and shall not allow an adult sex offender or a
3 juvenile who has committed a sexual offense to employ, ~~or contract with,~~
4 ~~OR BE SUPERVISED BY, A SUPERVISING OFFICER OR an individual or entity~~
5 ~~to provide sex-offender-specific SUPERVISION, evaluation, treatment, or~~
6 ~~polygraph services pursuant to this ~~article~~ ARTICLE 11.7 unless:~~

7 (a) The sex-offender-specific SUPERVISION, evaluation, treatment,
8 or polygraph services to be provided by the individual or entity conform
9 with the guidelines and standards developed pursuant to section
10 16-11.7-103; and

11 (b) ~~EXCEPT FOR SUPERVISING OFFICERS, the name of the individual~~
12 ~~providing services is on the list created pursuant to ~~paragraph (b) of~~~~
13 ~~subsection (2) SUBSECTION (2)(b) of this section of persons who may~~
14 ~~provide sex-offender-specific services.~~

15 (4) The board, IN CONJUNCTION WITH THE SUPERVISING AGENCY,
16 may determine the requirements FOR A SUPERVISING OFFICER TO WORK
17 WITH A SEX OFFENDER OR JUVENILE WHO HAS COMMITTED A SEXUAL
18 OFFENSE AND for an evaluator's, treatment provider's, or polygraph
19 examiner's name to be placed on the approved provider list after his or her
20 name has been removed from the list for any reason.

21 (7) (a) The board shall notify the department of regulatory
22 agencies OR THE AGENCY FOR WHOM THE SUPERVISING OFFICER WORKS of
23 the receipt of any complaints or grievances against an individual who
24 provides sex-offender-specific SUPERVISION, treatment, or evaluation
25 services pursuant to this article 11.7 and advise the department of any
26 disciplinary action taken pursuant to subsection (7)(b) of this section. The
27 department of regulatory agencies or the appropriate board, pursuant to

1 article 245 of title 12 and referred to in this subsection (7) as the "DORA
2 board", OR THE EMPLOYER OF A SUPERVISING OFFICER shall notify the
3 board of the receipt of any complaint or grievance against a provider who
4 provides sex-offender-specific SUPERVISION, treatment, or evaluation
5 services pursuant to this article 11.7, if the complaint or grievance was
6 not referred by the board, and advise the board of any disciplinary action
7 taken against the individual. ~~pursuant to any professional licensing act.~~

8 (b) The board shall review and investigate all complaints and
9 grievances concerning compliance with its standards against individuals
10 who provide sex-offender-specific SUPERVISION, treatment, evaluation,
11 or polygraph services pursuant to this ~~article~~ ARTICLE 11.7.
12 Notwithstanding any action taken by the department of regulatory
13 agencies, ~~or~~ the DORA board, OR THE EMPLOYER OF A SUPERVISING
14 OFFICER, the board may take appropriate disciplinary action, as permitted
15 by law, against an individual who provides sex-offender-specific
16 SUPERVISION, treatment, evaluation, or polygraph services pursuant to this
17 ~~article~~ ARTICLE 11.7. THE BOARD SHALL WORK IN CONJUNCTION WITH THE
18 SUPERVISING AGENCY REGARDING ANY COMPLAINT AGAINST A
19 SUPERVISING OFFICER. The disciplinary action may include, but need not
20 be limited to, the removal of the individual's name from the list of persons
21 who may provide sex offender evaluation, treatment, or polygraph
22 services pursuant to this ~~article~~ ARTICLE 11.7 OR REMOVING A
23 SUPERVISING OFFICER'S ABILITY TO SUPERVISE A SEX-OFFENDER-SPECIFIC
24 CASELOAD.

25 (c) (I) Nothing in this subsection (7) limits the rights or
26 responsibilities of the department of regulatory agencies, ~~or~~ the DORA
27 board, OR THE EMPLOYER OF A SUPERVISING OFFICER with respect to the

1 investigation and resolution of complaints. pursuant to article 245 of title
2 12.

3 (II) Nothing in this subsection (7) limits the rights or
4 responsibilities of the board with respect to the addition or removal of an
5 individual's name from the list of persons who may provide sex offender
6 evaluation, treatment, or polygraph services pursuant to this article
7 ARTICLE 11.7 OR FROM REMOVING A SUPERVISING OFFICER'S ABILITY TO
8 SUPERVISE A SEX-OFFENDER-SPECIFIC CASELOAD.

9 ***Recommendation 3***

10 **SECTION 5.** In Colorado Revised Statutes, 16-11.7-105, **amend**
11 (2) as follows:

12 **16-11.7-105. Sentencing of sex offenders - treatment based**
13 **upon evaluation and identification required.** (2) For offenders who
14 begin community supervision on or after August 10, 2016 THE EFFECTIVE
15 DATE OF THIS SUBSECTION (2), AS AMENDED, the supervising agency of
16 each adult sex offender and juvenile who has committed a sexual offense
17 shall provide the offender with a ~~choice of two appropriate treatment~~
18 ~~provider agencies staffed by approved providers unless the supervising~~
19 ~~agency documents in the file that, based upon the nature of the program~~
20 ~~offered, the needs of the offender, or the proximity of the appropriate~~
21 ~~treatment provider agency, fewer than two such agencies can meet the~~
22 ~~specific needs of the offender, ensure the safety of the public, and provide~~
23 ~~the supervising agency with reasonable access to the treatment provider~~
24 ~~agency and the offender during the course of treatment~~ LIST OF ALL
25 TREATMENT PROVIDERS WITH THE EXPERTISE TO WORK WITH THE SPECIFIC
26 RISKS AND NEEDS OF THE OFFENDER ON THE LIST DEVELOPED PURSUANT
27 TO SECTION 16-11.7-106. Once selected, the treatment provider

1 agency may not be changed by the offender without the approval of the
2 community supervision team, the multidisciplinary team, or the court.

3 ***Recommendation 4***

4 **SECTION 6.** In Colorado Revised Statutes, 16-11.7-103, **amend**
5 (4)(d) as follows:

6 **16-11.7-103. Sex offender management board - creation -**
7 **duties - repeal. (4) Duties of the board.** The board shall carry out the
8 following duties:

9 (d) **Risk assessment screening instrument.** The board shall
10 consult on, approve, and revise, as necessary, the risk assessment
11 screening instrument developed by the division of criminal justice to
12 assist the sentencing court in determining the likelihood that an adult sex
13 offender will commit ~~one or more of the offenses specified in section~~
14 ~~18-3-414.5 (1)(a)(II) C.R.S., under the circumstances described in section~~
15 ~~18-3-414.5 (1)(a)(III), C.R.S. In carrying out this duty, the board shall~~
16 ~~consider research on adult sex offender risk assessment and shall consider~~
17 ~~as one element the risk posed by an adult sex offender who suffers from~~
18 ~~psychopathy or a personality disorder that makes the person more likely~~
19 ~~to engage in sexually violent predatory offenses. If a defendant is found~~
20 ~~to be a sexually violent predator the defendant shall be required to register~~
21 ~~pursuant to article 22 of this title and shall be subject to community~~
22 ~~notification pursuant to part 9 of article 13 of this title~~ A NEW SEX CRIME.

23 ***Recommendation 5***

24 **SECTION 7.** In Colorado Revised Statutes, 16-11.7-106, **amend**
25 (2)(a) introductory portion and (2)(a)(I) as follows:

26 **16-11.7-106. Sex offender evaluation, treatment, and**
27 **polygraph services - contracts with providers - placement on**

1 **provider list - grievances - fund created.** (2) (a) The board shall
2 develop an application and review process for treatment providers,
3 evaluators, and polygraph examiners who provide services pursuant to
4 this ~~article~~ ARTICLE 11.7 to adult sex offenders and to juveniles who have
5 committed sexual offenses. The application and review process ~~shall~~
6 ~~allow~~ ALLOWS providers to demonstrate that they are in compliance with
7 the standards adopted pursuant to this ~~article~~ ARTICLE 11.7. The
8 application and review process ~~shall consist~~ CONSISTS of the following
9 three parts:

10 (I) (A) The board shall develop separate application and review
11 processes for standards that apply to the criminal justice component, such
12 as criminal history record checks, for evaluators, individual treatment
13 providers, and polygraph examiners. Applications for the criminal justice
14 components, including fingerprints, ~~shall~~ MUST be submitted to the board.
15 The board shall forward the fingerprints to the Colorado bureau of
16 investigation for use in conducting a state criminal history record check
17 and for transmittal to the federal bureau of investigation for a national
18 criminal history record check. The board may use information obtained
19 from the state and national criminal history record checks to determine an
20 applicant's eligibility for placement on the approved provider list. The
21 board ~~shall be~~ IS responsible for the implementation of the provisions of
22 this ~~subparagraph (I)~~ SUBSECTION (2)(a)(I).

23 (B) THE BOARD SHALL MAINTAIN A RECORD OF ANY DENIAL OR
24 REMOVAL FROM THE LIST OF APPROVED PROVIDERS OR OTHER SANCTIONS
25 DUE TO A PROVIDER'S CRIMINAL HISTORY.

26 <{*Does the committee want a safety clause or the 90-day referendum*
27 *language?*>